

**Introduced by Senator Wolk**February 19, 2015

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An act to amend Section 14132.06 of the Welfare and Institutions Code, relating to Medi-Cal.

## LEGISLATIVE COUNSEL'S DIGEST

SB 276, as introduced, Wolk. Medi-Cal: local educational agencies.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides that specified services provided by local educational agencies (LEAs) are covered Medi-Cal benefits, and requires the department to perform various activities with respect to the billing option for services provided by LEAs.

This bill would require the department to seek federal financial participation for covered services that are provided by an LEA to a child who is an eligible Medi-Cal beneficiary regardless of whether the child has an individualized education plan or an individualized family service plan, or whether those same services are provided at no charge to the beneficiary or to the community at large, if the LEA takes all reasonable measures to ascertain and pursue claims for payment of covered services against legally liable third parties.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2 following:

3     (a) Local educational agencies (LEA) must have an approved  
4 provider participant agreement with the State Department of Health  
5 Care Services through the Centers for Medicare and Medicaid  
6 Services to be eligible to provide services. To participate in the  
7 LEA Medi-Cal billing option program, LEAs must reinvest the  
8 federal reimbursement they receive under this program in health  
9 and social services for children and families, and develop and  
10 maintain a collaborative committee to assist them in decisions  
11 regarding the reinvestment of federal reimbursements. The  
12 providers and supervisors of staff for the assessment and medically  
13 necessary health services are school nurses.

14     (b) The LEA billing option facilitates reinvestment in health  
15 and social services for students and their families so that schools  
16 can foster access to and provide comprehensive health services to  
17 eligible Medi-Cal students.

18     (c) The funds are reimbursement for services rendered and can  
19 be used as matching dollars to draw down federal financial  
20 participation. The funds are restricted in their use; they must  
21 supplement existing services, not supplant.

22     (d) It is, therefore, the intent of the Legislature in enacting this  
23 act to ensure that a school district or county office of education  
24 that is authorized as an LEA Medi-Cal provider is assured that all  
25 options for federal financial participation are available. The  
26 Legislature encourages LEAs to utilize reimbursed funds to hire  
27 credentialed school nurses to supplement, not supplant, existing  
28 LEA health services personnel.

29     SEC. 2. Section 14132.06 of the Welfare and Institutions Code  
30 is amended to read:

31     14132.06. (a) Services specified in this section that are  
32 provided by a local educational agency are covered Medi-Cal  
33 benefits, to the extent federal financial participation is available,  
34 and subject to utilization controls and standards adopted by the  
35 department, and consistent with Medi-Cal requirements for  
36 physician prescription, order, and supervision.

1 (b) Any provider enrolled on or after January 1, 1993, to provide  
2 services pursuant to this section may bill for those services  
3 provided on or after January 1, 1993.

4 (c) Nothing in this section shall be interpreted to expand the  
5 current category of professional health care practitioners permitted  
6 to directly bill the Medi-Cal program.

7 (d) Nothing in this section is intended to increase the scope of  
8 practice of any health professional providing services under this  
9 section or Medi-Cal requirements for physician prescription, order,  
10 and supervision.

11 (e) (1) For the purposes of this section, the local educational  
12 agency, as a condition of enrollment to provide services under this  
13 section, shall be considered the provider of services. A local  
14 educational agency provider, as a condition of enrollment to  
15 provide services under this section, shall enter into, and maintain,  
16 a contract with the department in accordance with guidelines  
17 contained in regulations adopted by the director and published in  
18 Title 22 of the California Code of Regulations.

19 (2) Notwithstanding paragraph (1), a local educational agency  
20 providing services pursuant to this section shall utilize current  
21 safety net and traditional health care providers, when those  
22 providers are accessible to specific schoolsites identified by the  
23 local educational agency to participate in this program, rather than  
24 adding duplicate capacity.

25 (f) For the purposes of this section, covered services may include  
26 all of the following local educational agency services:

27 (1) Health and mental health evaluations and health and mental  
28 health education.

29 (2) Medical transportation.

30 (A) The following provisions shall not apply to medical  
31 transportation eligible to be billed under this section:

32 (i) Section 51323(a)(2)(A) of Title 22 of the California Code  
33 of Regulations.

34 (ii) Section 51323(a)(3)(B) of Title 22 of the California Code  
35 of Regulations.

36 (iii) For students whose medical or physical condition does not  
37 require the use of a gurney, Section 51231.1(f) of Title 22 of the  
38 California Code of Regulations.

1 (iv) For students whose medical or physical condition does not  
2 require the use of a wheelchair, Section 51231.2(e) of Title 22 of  
3 the California Code of Regulations.

4 (B) (i) Subparagraph (A) shall become inoperative on January  
5 1, 2018, or on the date the director executes a declaration stating  
6 that the regulations implementing subparagraph (A) and Section  
7 14118.5 have been updated, whichever is later.

8 (ii) The department shall post the declaration executed under  
9 clause (i) on its Internet Web site and transmit a copy of the  
10 declaration to the Assembly Committee on Budget and the Senate  
11 Committee on Budget and Fiscal Review and the LEA Ad Hoc  
12 Workgroup.

13 (iii) If subparagraph (A) becomes inoperative on January 1,  
14 2018, subparagraph (A) and this subparagraph shall be inoperative  
15 on January 1, 2018, unless a later enacted statute enacted before  
16 that date, deletes or extends that date.

17 (iv) If subparagraph (A) becomes inoperative on the date the  
18 director executes a declaration as described in clause (i),  
19 subparagraph (A) and this subparagraph shall be inoperative on  
20 the January 1 immediately following the date subparagraph (A)  
21 becomes inoperative, unless a later enacted statute enacted before  
22 that date, deletes or extends that date.

23 (3) Nursing services.

24 (4) Occupational therapy.

25 (5) Physical therapy.

26 (6) Physician services.

27 (7) Mental health and counseling services.

28 (8) School health aide services.

29 (9) Speech pathology services. These services may be provided  
30 by either of the following:

31 (A) A licensed speech pathologist.

32 (B) A credentialed speech-language pathologist, to the extent  
33 authorized by Chapter 5.3 (commencing with Section 2530) of  
34 Division 2 of the Business and Professions Code.

35 (10) Audiology services.

36 (11) Targeted case management services for children with an  
37 individualized education plan (IEP) or an individualized family  
38 service plan (IFSP).

39 (g) Local educational agencies may, but need not, provide any  
40 or all of the services specified in subdivision (f).

(h) For the purposes of this section, “local educational agency” means the governing body of any school district or community college district, the county office of education, a state special school, a California State University campus, or a University of California campus.

(i) Any local educational agency provider enrolled to provide service pursuant to this section on January 1, 1995, may bill for targeted case management services for children with an individualized education plan (IEP) *IEP* or an individualized family service plan (IFSP), *IFSP*, provided on or after January 1, 1995.

(j) Notwithstanding any other provision of law, a community college district, a California State University campus, or a University of California campus, consistent with the requirements of this section, may bill for services provided to any student, regardless of age, who is a Medi-Cal recipient.

(k) No later than July 1, 2013, and every year thereafter, the department shall make publicly accessible an annual accounting of all funds collected by the department from federal Medicaid payments allocable to local educational agencies, including, but not limited to, the funds withheld pursuant to subdivision (g) of Section 14115.8. The accounting shall detail amounts withheld from federal Medicaid payments to each participating local educational agency for that year. One-time costs for the development of this accounting shall not exceed two hundred fifty thousand dollars (\$250,000).

*(l) (1) If the requirement in paragraph (2) is satisfied, the department shall seek federal financial participation for covered services that are provided by a local educational agency pursuant to subdivision (a) to a child who is an eligible Medi-Cal beneficiary, regardless of either of the following:*

*(A) Whether the child has an IEP or an IFSP.*  
*(B) Whether those same services are provided at no charge to the beneficiary or to the community at large.*

*(2) The local educational agency shall take all reasonable measures to ascertain and pursue claims for payment of covered services specified in this section against legally liable third parties pursuant to Section 1902(a)(25) of the Social Security Act (42 U.S.C. Sec. 1396a(a)(25)).*

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